

AARON D. FORD  
Attorney General  
ANDREW C. NELSON, Bar No. 15971  
Deputy Attorney General  
State of Nevada  
100 N. Carson Street  
Carson City, NV 89701-4717  
Tel: (775) 684-1227  
E-mail: acnelson@ag.nv.gov

*Attorneys for Defendants,  
Charles Daniels and Perry Russell*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JOSE DIAZ MACIAS,

Plaintiff,

vs.

WARDEN PERRY RUSSELL, et al.,

Defendants.

Case No. 3:21-cv-00321-ART-CSD

**ORDER GRANTING  
DEFENDANTS' REQUEST FOR  
EXTENSION OF TIME TO FILE  
DISPOSITIVE MOTIONS  
(First Request)**

Defendants, Charles Daniels and Perry Russell, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Andrew C. Nelson, Deputy Attorney General, hereby move this Court for an extension of time to file dispositive motions (First Request). This Motion is made and based upon Federal Rules of Civil Procedure 6(b)(1)(A), the attached Points and Authorities, the papers and pleadings on file herein, and such other and further information as this Court may deem appropriate.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. FACTUAL ANALYSIS**

This action arises out an alleged deliberate indifference to the COVID-19 pandemic, while Plaintiff, Jose Diaz Macias ("Macias"), was incarcerated within the Nevada Department of Corrections ("NDOC") at Northern Nevada Correctional Center ("NNCC"). Macias filed his Civil Rights Complaint Pursuant to 42 U.S.C. §1983 ("Complaint") on December 1, 2021. (*See generally* ECF No. 5). Macias's Complaint alleges one (1) Eighth

Amendment claim against Defendants, Perry Russell (“Russell”) and Charles Daniels (“Daniels”) asserting claims under 42 U.S.C. §1983. (*See id.* at 2:2-4).

Generally, Macias alleges that Defendants, Russell and Daniels, refused to comply with emergency protocols of providing inmates the means to protect themselves from infection. (*See generally* ECF No. 5 at 5). This includes, masks, social distancing, washing one’s hands, and bleaching community areas. (*Id.*) As a result, Macias was exposed to COVID-19 on approximately November 23, 2020. (*Id.*)

On July 5, 2022, this Court issued a Scheduling Order, (ECF No. 22) ordering that dispositive motions must be filed no later than Thursday, February 2, 2022. (ECF No. 22 at 5:21-23). However, the Defendants are former NDOC employees and not all reside in the state of Nevada. Given that, communication with them is more difficult and the extension would allow an appropriate time to communicate with them in order to review and sign the necessary declarations for the dispositive motions.

Therefore, the Defendants would respectfully request an additional fourteen (14) days to file their dispositive motions.

## II. LEGAL ANALYSIS

Federal Rule of Civil Procedure 6(b)(1) governs extensions of time and provides as follows:

When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Defendant’s request is timely and will not hinder or prejudice Plaintiff’s case, but will allow for a thorough opportunity to file a complete dispositive motion. The requested extension of time should permit the Defendant time to adequately gather the required declarations. Defendant asserts that the requisite good cause is present to warrant the requested extension of time. In light of this situation, it is respectfully asserted that a short extension is warranted. Therefore, a 14-day extension is requested.

1 **III. CONCLUSION**

2 Defendant asserts that the requisite good cause and extenuating circumstances are  
3 present to warrant the requested extension of time. Therefore, Defendant requests an  
4 extension to file his dispositive motion. The Defendant requests an extension of 14 days,  
5 or to **Thursday, February 16, 2023**, to file his dispositive motion.

6 DATED this 27th day of January, 2023.

7 AARON D. FORD  
8 Attorney General

9 By: /s/ Andrew C. Nelson  
10 ANDREW C. NELSON, Bar No. 15971  
Deputy Attorney General

11 *Attorneys for Defendants*

12  
13 IT IS SO ORDERED.

14 DATED: February 1, 2023.

15   
16 UNITED STATES MAGISTRATE JUDGE